

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket: NL 030113

GILLIAN ANTOINETTE MIMNAGH-KELLEHER ET AL.

Confirmation No. 8136

Serial No. 10/544,202

Group Art Unit: 3736

Filed: AUGUST 2, 2005

Examiner: STOUT, M.C.

Title: DEVICE FOR DETERMINING A VALUE THAT IS REPRESENTATIVE OF
ACCELERATIONS AS WELL AS AN ERGOMETER

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

Sir:

In response to the Examiner's Answers mailed on December 19,
2008, please consider the following remarks:

REMARKS

Appellants maintain the arguments submitted in the Appeal Brief filed on November 25, 2008, which is incorporated herein by reference. Further, Appellants refute the allegations made in the Examiner's Answer of December 19, 2008.

In particular, on page 5, lines 4-6 of the Examiner's Answer, it is alleged that:

the accelerometers are directly connected to the adding element such that they are not remotely or wireless[ly] connected to the adding element.
(Emphasis added)

Further, on page 15, lines 12-13 of the Examiner's Answer, it is alleged that:

a direct connection refers to a physical connection (direct connection vs. wireless or remote connection). (Emphasis added)

Appellants respectfully traverse and submit that the ordinary meaning of a direct connection refers to a connection between two points directly, such as between point A and point B, or

A —————> B

If a point C is interposed between points A and B, such as:

A —————> C —————> B

then it cannot be said that points A and B are directly connected. Rather, in this case, points A and B are indirectly connected to each other, namely, through point C. For example, the following definitions for "direct" are given by the Cambridge dictionary available at:

"<http://dictionary.cambridge.org/define.asp?key=21924&dict=CALD>"

Direct: without anyone or anything else being involved or between; or direct relation/relative/descendant a relative who is related to you through one of your parents, not through an aunt or uncle, etc: Diana is a direct descendant of Robert Peel.

Another definition for "direct" available at "<http://www.yourdictionary.com/direct>" is "with nothing or no one between."

As clearly seen from FIG 1 of Depeursinge, outputs of the accelerometers 2a, 2b 2c are NOT directly connected to the adding element 24. Rather, the Depeursinge accelerometers outputs are indirectly connected to the adding element 24 through two integrators 3 and 4.

Similarly, Damen clearly shows in FIG 3, three acceleration sensors 14 that are indirectly connected together through three

amplifiers 15. The three amplifiers 15 are separate elements, and not part of the acceleration sensors. The present inventions as recited in claims 5 and 12, includes a signal amplifier 15 after the summer 3, as shown in FIG 1 to amplify the summed signal from the accelerometers. This provides substantial benefits, such as reducing the number of amplifiers, e.g., from the three amplifiers 15 shown in FIG 3 of Damen, to a single amplifier shown in FIG 1 and recited in claims 5 and 12, thus reducing size and cost of the inventive device.

There is simply no disclosure of suggestion in Depeursinge, Damen, and combination thereof, that "outputs of the at least two accelerometers are directly connected to the adding element to form the electric signal for processing by the signal processing means," as recited in independent claim 1, and similarly recited in independent claims 5 and 15.

Accordingly, it is respectfully submitted that independent claims 1, 5 and 15 should be allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-4 and 6-14 should also be allowed at least based on their dependence from amended independent claims 1 and 5.

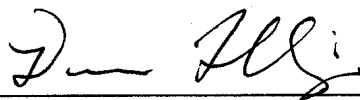
In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-15 are patentable over Depeursinge, Damen, Bouten, Raz, Berther, Richardson and Mantyjarvi.

Thus, the Examiner's rejections of claims 1-15 should be reversed.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
February 16, 2009

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101